

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Xavier Hewitt,)	Civil Action No.: 4:18-cv-00842-RBH
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Liberty Life Assurance)	
Company of Boston,)	
)	
Defendant.)	
_____)	

This matter is before the Court for review of the Report and Recommendation (“R & R”) of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). *See* ECF No. 33. The Magistrate Judge recommends dismissing this case pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute, or alternatively, granting Defendant’s motion for judgment on the pleadings and dismissing this case with prejudice.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of those portions of the R & R to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Neither party has filed objections to the R & R, and the time for doing so has expired.¹ In the absence of objections to the R & R, the Court is not required to give any explanation for adopting the Magistrate Judge’s recommendations. *See Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983).

¹ Plaintiff’s objections were due by October 9, 2018. *See* ECF Nos. 33 & 34.

The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’” (quoting Fed. R. Civ. P. 72 advisory committee’s note)).

After a thorough review of the record in this case, the Court finds no clear error and therefore adopts and incorporates by reference the Magistrate Judge’s R & R [ECF No. 33]. Accordingly, the Court **DISMISSES** this action for failure to prosecute pursuant to Fed. R. Civ. P. 41(b), alternatively **GRANTS** Defendant’s motion for judgment on the pleadings [ECF No. 24], and **DISMISSES** this action with prejudice.²

IT IS SO ORDERED.

Florence, South Carolina
October 15, 2018

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

² Defendant’s Motion to Vacate the ERISA Case Management Order [ECF No. 28] is **MOOT**.